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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,861	04/11/2005	Haruo Tsuchida	120478	6401
25944	7590	01/10/2008	EXAMINER	
OLIFF & BERRIDGE, PLC			MCGRAW, TREVOR EDWIN	
P.O. BOX 320850				
ALEXANDRIA, VA 22320-4850			ART UNIT	PAPER NUMBER
			3752	
			MAIL DATE	DELIVERY MODE
			01/10/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/501,861	TSUCHIDA, HARUO	
Examiner	Art Unit		
Trevor McGraw	3752		

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 13 December 2007.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-9,11 and 13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,2,7-9 and 11 is/are rejected.

7)  Claim(s) 3-6 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 13 December 2007 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/13/2007 has been entered.

***Examiner's Comment***

Examiner acknowledges the cancellation of Claims 10 and 12.

***Drawings***

The drawings were received on 12/13/2007. These drawings are acceptable.

***Specification***

Examiner also acknowledges amendments made to the specification. These amendments are acceptable, as Applicant has not entered any new matter.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Examiner cannot find supporting disclosure for the recited

limitations "the extension portions being a single continuous component" anywhere within the Specification. Appropriate correction or clarification is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recited limitations of Claim 1, "the extension portions being a single continuous component" cannot be supported by the accompanying disclosure and constitute new matter being entered into the claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6 recite the limitation "the horizontal direction" in line 3 respectively. There is insufficient antecedent basis for this limitation in the claim. Examiner suggests deleting the word "the" and inserting the word --a--, so that line 3 of Claims 1 and 6 read as "a horizontal direction" in lieu of "the horizontal direction" to ensure antecedence is maintained within the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 7-9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuchida et al. (US 6,267,271).

In regard to Claims 1 and 2, Tsuchida et al teach a trigger type fluid dispenser having a body (1) that is provided with a discharge flow path for discharging a fluid in a horizontal direction and has a cylinder (4) that is disposed in parallel with the discharge flow path, a trigger (3) held to be swingable with respect to the body (1) and a piston (5) which slides reciprocating in the cylinder (4) in cooperating with the trigger (3) where the trigger includes a hook portion (31) that is held swingable with respect to the body (1) and an elastic portion where two extension portions (6) integrally extend from a swinging portion of the hook portion (31) are turned down and held with respect to the

body and the tip ends (30) of the extension portions (6) are positioned to be capable of coming into contact with the hook portion (31). The elastic portions (6) are configured so that one side of the turned down portion of the extension portions (6), bent portions (32, 33, 34) in which the extension portions (6) are bent at least in one place are provided and on the other side, there are wavy portions (see how the wavy portions extend between 33 and 34) in which the extension portions (6) are bent at a plurality of places (see Figures 7 and 15). A cover (9) is further installed to the body (1) to form an internal space between the cover (9) and the discharge flow path and the turned down portion of the trigger (3) is held by the body (1) of the cover (9). The tip ends (30) of the extension portions (6) are supported by at least one beam (18) extending from the swinging portion to provide a predetermined clearance from the hook portion (31) where one of the extension portions (6) is a single continuous component.

With regard to Claims 7-9, 11 and 12, Tsuchida et al teach where the body (1) is integral with a spin member (2) near the discharge port of the discharge flow path. The body (1) also includes a connecting portion (7) for connecting the body (1) to a mouth of a container body. The trigger (3) of the dispenser has a holding pin (60) and the piston (5) has an opening (61) that has a diameter larger than that of the holding pin (60) and inserting the holding pin (60) in the opening (61) allows the trigger (3) and piston (5) to cooperate with each other.

***Allowable Subject Matter***

Claim 6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 3-5 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

#### **Objection to Drawings**

Applicant's arguments, see page 9, filed 12/13/2007, with respect to objection to the drawings have been fully considered and are persuasive. The objection to the drawings held under 37 CFR 1.83(a) has been withdrawn in view of Applicant's amended drawing that gives a reference number (135) to correspond to the feature "extension portions".

#### **Rejection under 35 USC § 102**

Applicant's arguments with respect to claims 1, 2, 7-9, 11 and 12 have been considered but are moot in view of the new ground(s) of rejection held against the aforementioned claims under 35 U.S.C. § 102 (b) to Tuschida et al. (US 6,267,271).

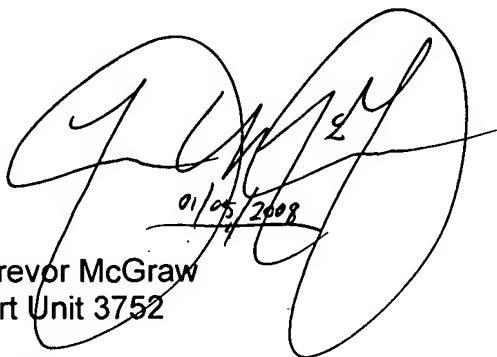
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foster et al. (US 5,593,093), Foster (US 5,590,834).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



01/05/2008

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